



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SEP 15 2008

BY FACSIMILE (202) 778-5503 AND U.S. MAIL

Robert K. Kelner, Esquire
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2401

RE: MUR 5871/Sam Thurber

Dear Mr. Kelner:


On August 19, 2008, the Federal Election Commission accepted the conciliation agreement submitted on behalf of your client, Sam Thurber, in settlement of a violation of 2 U.S.C. § 441f, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. *See* 2 U.S.C. § 437g(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalties are due within 30 days of the conciliation agreement's effective date.

If you have any questions, please contact me at (202) 694-1650.

Sincerely,


Tracey L. Ligon
Attorney

Enclosure
Conciliation Agreement

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2008 MAR 18 PM 2:27
BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Sam Thurber

MUR: 5871

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COMMISSION
OFFICE OF GENERAL
COUNSEL
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CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities.

The Commission found reason to believe that Sam Thurber ("Respondent") knowingly and willfully violated 2 U.S.C. § 441f.

NOW, THEREFORE, the Commission and Respondent, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

- I. The Commission has jurisdiction over Respondent and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).
- II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- III. Respondent enters voluntarily into this agreement with the Commission.
- IV. The pertinent facts in this matter are as follows:
 1. The Federal Election Campaign Act of 1971, as amended ("the Act"), prohibits any person from making a contribution in the name of another, or for any person knowingly to permit his or her name to be used to make such a contribution. See 2 U.S.C. § 441f. Moreover, no

MUR 5871
Conciliation Agreement
Sam Thurber

person may knowingly help or assist any person in making a contribution in the name of another.

11 C.F.R. § 110.4(b)(1)(iii).

2. During the 2003-2004 election cycle, a person could contribute no more than \$2,000 to a candidate and his or her authorized committee per election. See 2 U.S.C. § 441a(a)(1)(A).

3. On October 30, 2003, Bush-Cheney '04, Inc. hosted a campaign fundraiser at the Hyatt Regency hotel in Columbus, Ohio, to which the admission fee was a \$2,000 contribution – the maximum amount an individual could give to Bush-Cheney '04, Inc.

4. On May 31, 2006, Thomas W. Noe pled guilty to federal charges of making illegal conduit contributions in connection with the October 30, 2003 campaign fundraiser. The indictment stated that Mr. Noe used \$45,400 of his funds to make contributions over the legal limits, and concealed the true source of the contributions by making them in the names of other individuals, known as "conduits," and also recruited "super-conduits," who not only acted as conduits but also recruited additional conduits and passed funds from Mr. Noe to those additional conduits.

5. The indictment further stated that Thomas W. Noe requested that each conduit contribute money to Bush-Cheney '04, Inc. in his or her own name and attend the fundraiser; provided funds to conduits as an advance on or reimbursement for their contribution; and took steps to conceal the activity by making payments to several conduits in amounts slightly below the amount of the conduits' contribution, and by instructing several conduits that, if asked in the future about the payments, they should lie and say the payments were a loan from Mr. Noe.

6. Thomas W. Noe provided a check in the amount of \$3,750 as an advance on or reimbursement for a joint contribution of \$3,900 to Bush-Cheney '04, Inc. made by Respondent and his wife.

MUR 5871
Conciliation Agreement
Sam Thurber

7. The knowing and willful standard requires knowledge that one is violating the law. *See Federal Election Commission v. John A. Dramesi for Congress Committee*, 640 F. Supp. 985, 987 (D. N.J. 1986).

8. Respondent filled out a donor card stating that he and his wife were making a \$3,900 contribution drawn on their personal credit card that represents their personal funds when, in fact, the funds of Thomas W. Noe were used to make the contribution.

V. Respondent violated 2 U.S.C. § 441f by permitting his name to be used to effect a contribution made in the name of another. The Commission has evidence it believes is sufficient to demonstrate that this violation was knowing and willful, however the Respondent disputes the sufficiency of the Commission's evidence and contends that he did not intend to violate the law.

VI. Respondent will pay a civil penalty to the Federal Election Commission in the amount of Nine Thousand Dollars (\$9,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

1. A payment of Three Thousand Dollars (\$3,000) is due no more than thirty (30) days from the date this Agreement becomes effective;

2. Thereafter, Respondent will make two consecutive monthly installment payments of Three Thousand Dollars (\$3,000) each, and each such installment shall be paid within thirty (30) days of the due date for the previous payment.

3. In the event that any payment is not received by the Commission by the fifth day after it becomes due, the Commission may, at its discretion, accelerate the remaining payments and cause the entire amount to become due upon ten days written notice to the Respondent. Failure by the Commission to accelerate the payments with regard to any overdue payment shall not be construed as a waiver of its right to do so with regard to future overdue payments.

MUR 5871
Conciliation Agreement
Sam Thurber

VII. Respondent will cease and desist from violating 2 U.S.C. § 441f by permitting his name to be used to effect a contribution made in the name of another.

VIII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.


IX. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Thomasenia P. Duncan
General Counsel

BY:


Kathleen Smith ANN MARIE TERZAKEN Date
Acting Associate General Counsel
for Enforcement

9/5/08

FOR THE RESPONDENT:


Sam Thurber

3/6/08
Date